IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2446 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE A.M.KAPADIA

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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RENOWN CONSTRUCTION COMPANY &2 - Petitioner(s)

Versus

STATE OF GUJARAT &3 - Respondent(s)

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Appearance :

MR GT DAYANI for Petitioner No(s).: 1,2,3.

Ms Sadhna Rawal AGP for Respondent No(s).: 1.

RULE SERVED for Respondent No(s).: 2,3,4.

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CORAM :HON'BLE MR.JUSTICE A.M.KAPADIA

Date : 12/07/2005

ORAL JUDGMENT :

1. By filing this petition under Article 227 of the Constitution of India, the petitioners seek to challenge the order dated 2.12.2004 recorded below application Ex.144 in Special Civil Suit

No.129 of 1992 by the learned Civil Judge (S.D.)., Valsad by which the application filed by the petitioners for consolidation of two Suits being Special Civil Suit No.129 of 1992 filed by the respondent State and Special Civil Suit No.166 of 2000 filed by the petitioners, came to be rejected.

2. Having heard Mr. G.T. Dayani, learned advocate for the petitioners and Ms. Archna Rawal, learned AGP for respondent No.1 – State of Gujarat and having perused the impugned order, according to this Court, the impugned order requires interference of this Court as the reasons assigned by the learned Civil Judge (S.D.)., Valsad does not stand to scrutiny. According to this Court, if both the suits are consolidated, the question of limitation can be decided even after consolidation of both the suits.
3. In aforesaid view of the matter, the impugned order dated 2.12.2004 passed by the learned Civil Judge (S.D.)., Valsad deserves to be quashed and set aside by allowing this petition.
4. For the foregoing reasons, the petition succeeds and accordingly it is allowed with no order as to costs. The impugned order dated 2.12.2004 passed by the learned Civil Judge (S.D.)., Valsad below Ex.144 in Special Civil Suit No.129 of 1992 is hereby quashed and set aside as a result of which the application Ex.144 filed in Special Civil Suit No.129 of 1992 is granted and accordingly both the suits i.e., Special Civil suit No.129 of 1992 filed by State of Gujarat and Special Civil Suit No.166 of 2000 filed by the petitioners which are pending for final adjudication before the learned Civil Judge (S.D.)., Valsad are ordered to be consolidated. The learned trial Judge is directed to record common evidence in both suits and then dispose of the same in accordance with law. Rule is made absolute to the aforesaid extent.

(A.M. Kapadia, J.)

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